

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

MATTHEW THOMPSON,

Plaintiff,

v.

CASE NO. 4:14cv465-RH/GRJ

B. SMITH et al.,

Defendants.

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**ORDER CONTINUING THE TRIAL, AMENDING
THE SCHEDULE, AND WITHDRAWING THE
REFERENCE TO THE MAGISTRATE JUDGE**

This case has been pending for nearly three years. The order of November 25, 2016, set the pretrial and trial schedule. The order gave the parties more than five months to complete discovery, nearly six months to move for summary judgment, and more than six months to file witness and exhibit lists. The order set the trial for July 17, 2017, thus providing nearly eight months' notice of the trial date. The order remanded the case to the magistrate judge "for further proceedings consistent with this schedule," underscoring the intent to adhere to the schedule as announced in the order. ECF No. 56 at 2.

The parties have not met the schedule. The defendants moved to extend the summary-judgment deadline to June 19, 2017. The response to a motion filed on that date would be July 10, 2017, just a week before the trial, suggesting that in reality the defendants sought a continuance of the trial. Without giving the plaintiff an opportunity to respond, the magistrate judge granted the motion. Neither side moved to extend the deadline to file witness and exhibit lists, but the deadline now has passed, with neither side having filed any list. The parties apparently do not intend to go to trial on July 17.

This order revises the schedule. It will not be revised again (unless to accommodate a preexisting conflict with the new trial date).

This order also provides notice of some of the procedures that will govern any summary-judgment motion. The plaintiff Matthew Thompson has the burden of proof on the substantive issues. A defendant's summary-judgment motion will be granted unless the record includes evidence that, if believed, would entitle Mr. Thompson to prevail. Evidence may include documents that would be admissible at a trial and may also include testimony. Testimony may include depositions, interrogatory answers, declarations, or sworn testimony of any kind. Testimony may be given by Mr. Thompson or any other person. A declaration must show that the declarant has personal knowledge of the facts set out in the declaration. And if not sworn before a notary, the declaration must include a statement in substantially

this form: “I declare under penalty of perjury that this declaration is true.” Any summary-judgment motion will be taken under advisement based on the record that is compiled through July 10, 2017. A ruling may be entered without a hearing.

For these reasons,

IT IS ORDERED:

1. The deadline to file a summary-judgment motion is June 19, 2017.
2. The deadline to file a response to a summary-judgment motion is July 10, 2017.
3. The deadline to file witness and exhibit lists is extended to July 10, 2017.
4. The pretrial conference previously scheduled for June 27, 2017, at 10:00 a.m. E.D.T., by telephone, *will go forward as scheduled*. The status of the case will be addressed.
5. By a separate notice, the clerk must schedule an additional pretrial conference by telephone for the first available date on or after July 31, 2017.
6. The trial is rescheduled for the two-week trial period that begins on August 21, 2017. A party with a conflict must file a notice describing the conflict by June 26, 2017.
7. The reference of the case to the magistrate judge for nondispositive

matters and for a report and recommendation on any potentially dispositive matter is withdrawn. The clerk must refer any summary-judgment motion directly to me.

SO ORDERED on June 12, 2017.

s/Robert L. Hinkle

United States District Judge